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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,856	11/25/2003	Quint A. Marcaletti	ZIM0396	6929
John F. Hoffman, Esq. BAKER & DANIELS LLP Suite 800 111 East Wayne Street			EXAMINER	
			GETTMAN, CHRISTINA DANIELLE	
			ART UNIT	PAPER NUMBER
Fort Wayne, IN 46802			3734	
			MAIL DATE	DELIVERY MODE
			11/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
•	10/721,856	MARCALETTI, QUINT A.				
Office Action Summary	Examiner	Art Unit				
	Christina D. Gettman	3734				
The MAILING DATE of this communication ap						
Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 136(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from a, cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on 05 S	September 2007.	•				
2a) ☐ This action is FINAL . 2b) ☑ This	s action is non-final.					
3) Since this application is in condition for allowa	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-15</u> is/are pending in the application.						
4a) Of the above claim(s) <u>1-6 and 13-15</u> is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>7-12</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/o	or election requirement.					
Application Papers						
9) The specification is objected to by the Examiner.						
10)⊠ The drawing(s) filed on <u>25 November 2003</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.						
Oce the attached detailed Office action for a list of the certified copies flot received.						
Attachment(s)						
1) X Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)				
2) Dotice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	ate				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 11/25/2003.	5) Notice of Informal F 6) Other:	atent Application				

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DETAILED ACTION

Election/Restrictions

Claims 1-6 and 13-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on September 5, 2007.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Summers et al. (U.S. Patent No. 5,037,431). Summers et al. disclose the invention substantially as claimed including a method of jet cutting skin (col. 9, line 21 - col. 10, line 45) with the steps of automatically jet cutting skin into a selectable pattern (col. 10, line 10; a circular pattern), automatically tensioning the skin concurrently with the cutting step (the vacuum that is applied to the tissue area creates tension along the length of tissue under the device), jet cutting human skin (col. 9, line 29), and jetting a biocompatible saline solution (col. 4, line 64).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summers et al., as applied above to claim 7. Summers et al. disclose the invention substantially as claimed including jet cutting human skin (col. 9, line 29) and cutting the skin into a predetermined perimeteral shape (col. 10, line 10; a circular pattern). Summers et al. disclose the invention substantially as claimed except for making a first cut in skin and making a second cut in the skin spaced apart from the first cut by 0.025 inches. Summers et al. does disclose that the surgeon can move the device to a farther away from the tissue area to create a larger cutting area. The pressure of the jets is then changed so that the same force is hitting the tissue to be removed as if it were closer to the skin. It would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the method of Summer et al. to create two cuts of tissue that are about 0.025 inches apart, rather than moving the device away from the tissue, in order to extract a desired amount of tissue.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina D. Gettman whose telephone number is 571-272-3128. The examiner can normally be reached on Monday-Friday 7:15 am to 3:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christina Gettman Art Unit 3734 571-272-3128

MICHAEL J. HAYES SUPERVISORY PATENT EXAMINER

MJ Hayer